

Applicant: Cy A. Stein et al.
Serial No.: 09/753,169
Filed: January 2, 2001
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REMARKS

Claims 5, 9, and 43 are pending and under examination in the subject application. By this Amendment, applicants have amended claim 5. Applicants maintain that the amendments to the claims raise no issue of new matter. Support for the amendments to claim 5 may be found in the specification at, *inter alia*, page 3, lines 2-5; page 15, lines 1-3; page 5, lines 20-25; page 5, lines 3 and 28; page 1, lines 21-22; and in originally filed claim 1. Accordingly, applicants respectfully request entry of this Amendment. After entry of this Amendment, claims 5, 9, and 43 will be pending and under examination.

Claims Rejected Under 35 U.S.C. §103

The Examiner rejected claims 5 and 43 under 35 U.S.C. §103 as allegedly obvious over Reed et al. (WO/95/085350) in view of Goodchild (1990) with regard to SEQ ID NO:11 of claim 5.

In response, applicants respectfully traverse the Examiner's rejection. However, in order to expedite prosecution, but without conceding the correctness of the Examiner's argument, applicants have hereinabove amended claim 5. As amended, claim 5 does not recite SEQ ID NO:11. Applicants note that the combination of Reed et al. and Goodchild make no teaching or suggestion of SEQ ID NOS: 1, 3-10 and 12-13 as recited in amended claim 5. Accordingly, applicants maintain that the claimed subject matter is not obvious, and respectfully request that the Examiner reconsider and withdraw this ground of rejection.

Double Patenting

The Examiner stated that claims 5, 9 and 43 remain provisionally

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rejected under the judicially created doctrine of double patenting over claims 9, 36-50, 53-54, 58, and 61-62 of copending Application No. 09/832,648 in view of Manoharan et al. Sanghvi et al, Matteucci et al. and Arnold et al. for the reasons of record set forth in the prior Office Action mailed 6-18-03. In addition, the Examiner stated that claims 5, 9, and 43 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 37-43, 51-53, 58, and 61-62 of copending Application No. 10/160,344.

In response, applicants respectfully traverse the Examiner's rejection. However, applicants respectfully note that the claims of the co-pending applications referred to by the Examiner have not been allowed, and that if the Examiner's remaining rejections are obviated by the amendments and arguments made hereinabove then the pending claims should be allowed in the absence of the allowance of the applications over which the double patenting rejections have been made.

Accordingly, in light of the arguments and amendments made hereinabove, applicants respectfully request that the Examiner reconsider and withdraw the various grounds of rejections, and allow claims 5, 9, and 43.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

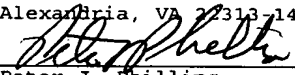
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No fee is deemed necessary in connection with the filing of this Amendment. However, if any such fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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